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Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2005 resumed session*

New York, 4-8 April 2005

I. Introduction

1. The Special Committee on Peacekeeping Operations met in New York from 4 to 8 April 2005 to consider the report entitled "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations" (see A/59/710).

2. The Special Committee welcomes the prompt submission by the Secretary-General of the comprehensive report on sexual exploitation and abuse by United Nations peacekeeping personnel (see A/59/710), prepared by the Adviser to the Secretary-General on this question, His Royal Highness Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of Jordan. The Committee expresses its deep appreciation to Prince Zeid and his team for the comprehensive nature of the report.

3. The Special Committee recognizes the shared responsibility of the Secretariat and Member States to take every measure within their purview to prevent sexual exploitation and abuse, among the most egregious forms of grave misconduct, by all categories of personnel in United Nations peacekeeping missions, and to enforce United Nations standards of conduct in this regard, and reiterates the strong commitment of Member States in this regard.

4. The Special Committee reiterates that misconduct and even perceptions of impropriety are unacceptable and have a detrimental effect on the fulfilment of the mission mandates.

* The present document is an advance version of the report of the Special Committee on Peacekeeping Operations and its Working Group on the 2005 resumed session, held at United Nations Headquarters from 4 to 8 April 2005. It will appear in final form together with the report of the Special Committee on Peacekeeping Operations and its Working Group on the 2005 substantive session (A/59/19) in *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1).

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5. In recognition of the gravity of the problem of sexual exploitation and abuse in peacekeeping contexts, the Special Committee is committed to implementing fundamental, systemic changes as a matter of urgency, drawing on the recommendations in the report. The Committee recognizes, however, that not all measures can be implemented immediately in view of the complex nature of some of the legal issues raised in the report as well as the need to further develop the concept and financial implications of a number of recommendations. It therefore considers the discussion and implementation of the recommendations in the report as a process that begins with the 2005 resumed session of the Special Committee and ends at the earliest opportunity, preferably by 1 June 2007.

6. The recommendations adopted by the Committee are without prejudice to the right of the troop-contributing countries to exercise exclusive jurisdiction over their own contingents.

II. Proposals, recommendations and conclusions

7. The Special Committee adopts the following recommendations as a matter of urgency:

A. Uniform standard

8. The Special Committee notes that it welcomed the standards set out in the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) that are binding on United Nations staff in its 2004 report (A/58/19, para. 115). That report was endorsed by the General Assembly in resolution 58/315. The Committee recommends that the General Assembly endorse the standards of conduct and behaviour in the Secretary-General's bulletin for all categories of United Nations peacekeeping personnel. Violation of those standards will result in appropriate action within the authority of the Secretary-General, but criminal and disciplinary responsibility in respect of members of national contingents depends on the national law of the Member State.

9. The Special Committee recommends that the Secretary-General issue the standards set out in his bulletin of 2003 in a manner convenient to troop-contributing countries, in the languages of contingent members of peacekeeping missions as well as in the official languages of the United Nations, with translations of the standards to be provided by troop-contributing countries and the United Nations arranging publication at mission cost as agreed with the troop-contributing countries.

B. Training

10. The Special Committee recommends that the Department of Peacekeeping Operations make available, on induction and throughout the mission assignment, training on the required standards of conduct and, in particular, on the detailed prohibitions in the Secretary-General's bulletin.

11. The Special Committee welcomes the efforts that have been made in training of military and civilian personnel on arrival and during their service in the mission

areas, both on the Organization's standards of conduct relating to sexual exploitation and abuse and on HIV/AIDS awareness, and calls upon the Department of Peacekeeping Operations to review HIV/AIDS training to ensure that the prohibitions in the Secretary-General's bulletin are fully included.

C. Participation of women in peacekeeping missions

12. The Special Committee, in the recommendations in its previous report (A/59/19), encouraged Member States and the Secretariat to increase the participation of women in all aspects and all levels of peacekeeping operations, both civilian and military, where possible, pursuant to General Assembly resolution 59/164 and Security Council resolution 1325 (2000). The Committee considers such a measure to be particularly important in the context of combating sexual exploitation and abuse, since it would facilitate the mission's task of making meaningful contact with vulnerable groups and non-governmental organizations in the local community, as well as efforts to encourage the reporting of abuse and to promote an environment that discourages such acts. The Committee also urges the full integration of the Office of the Special Adviser on Gender Issues and Advancement of Women into these efforts.

D. Planning

13. The Special Committee encourages troop-contributing countries, where feasible and appropriate, to send established units to peacekeeping missions rather than assembling units from different existing national units.

E. Organizational, management and command responsibility

14. The Special Committee emphasizes that managers and commanders must lead by example and fulfil their duties as managers and commanders by raising awareness and ensuring that all personnel under their supervision are aware that sexual exploitation and abuse, as defined in the Secretary-General's bulletin, will not be tolerated at all by the Organization or by Member States.

15. The Special Committee recommends that the responsibility for creating and maintaining an environment that prevents sexual exploitation and abuse should be part of the performance objectives of managers and commanders involved in peacekeeping missions, and that failure to implement all or parts of those objectives should be reflected in the performance appraisals of the managers and commanders concerned. The Committee emphasizes that those who fail to meet managerial and command objectives in this regard must be held accountable.

16. The Special Committee recommends that missions institute, in the light of the recommendations in the report of the Adviser to the Secretary-General, measures appropriate to the specific conditions in that mission, to comply with the Secretary-General's policy of zero tolerance of sexual exploitation and abuse, and to deal with widespread allegations of sexual exploitation and abuse. It notes with approval that some missions are instituting such measures. Those found culpable must be punished by their respective managers or commanders.

17. In the light of the recommendations in the report of the Adviser to the Secretary-General, the Special Committee recommends that heads of mission seek authorization from the Secretary-General, where he or she deems the circumstances to so require, to institute stricter rules of conduct for civilian and military personnel with regard to the prevention of sexual exploitation and abuse.

18. The Special Committee recommends that, where feasible and appropriate, a force-level military police unit in a mission area should be from a troop-contributing country different from other military contingents in the same mission area. Where security and administrative support issues permit, force-level military police units should not be co-located with the military contingents they are to police.

F. Welfare and recreation

19. The Special Committee recognizes that peacekeeping operations are often situated in high-stress environments, where there is little opportunity for personnel to take recreational breaks, or to be in contact with family and friends. The Committee highlights the need for welfare and recreational services to be available to all categories of personnel in peacekeeping missions. The Committee further recognizes that, as noted in paragraphs 50 and 51 of the report of the adviser to the Secretary-General, welfare and recreation facilities have sometimes been inadequate.

20. The Special Committee recommends that the Secretary-General carry out a comprehensive review, including a cost-benefit analysis, of the welfare and recreation needs for all categories of peacekeeping personnel, to include, inter alia, a review of the rules on rest and recreation, including classification of duty stations as family or non-family for United Nations civilian staff; the need for welfare officers and stress counsellors, bearing in mind existing capabilities already deployed; development of minimum standards of welfare and recreation facilities for all categories of personnel; and a review of the effectiveness of the system of welfare payments; proposals should be made to the General Assembly during its sixtieth session.

21. The Special Committee recommends that the Department of Peacekeeping Operations take steps to improve living conditions and welfare and recreation facilities for all categories of personnel as soon as possible, including but not limited to recreational sites for rest and recuperation of contingent members, use of mission transportation assets to such sites, Internet facilities, and inter-contingent sporting facilities.

22. The Special Committee recognizes that troop-contributing countries have the primary responsibility to provide their contingent members with welfare and recreation facilities. The Committee notes that a welfare payment is currently made to troop-contributing countries. The Committee reaffirms that this money must continue to be used to provide welfare and recreation facilities in mission areas.

23. The Special Committee further recommends that the Department of Peacekeeping Operations discuss plans for provision of welfare and recreation facilities with troop-contributing countries during the predeployment assessment conducted by the Force Generation Service and that the provision of such facilities

in missions be monitored by the Department of Peacekeeping Operations, using existing monitoring mechanisms, while troops are deployed.

G. Data management

24. The Special Committee recommends that the Secretary-General establish a data collection and management system at Headquarters and in the field to track allegations of sexual exploitation and abuse and responses of missions to those allegations, and that the database be a management tool that would also ensure that prior offenders are not rehired.

25. The Special Committee recommends that the database track non-specific allegations because they may be an indication of a problem that requires a managerial response.

H. Capacity to address misconduct

26. The Special Committee acknowledges the important role that dedicated Child Protection Advisers and Gender Advisers can and should play as part of their established duties in disclosing allegations of and preventing sexual exploitation and abuse in peacekeeping missions, and urges the Secretary-General to fully utilize this existing capacity where this is not being fully utilized at present.

27. The Special Committee notes that the Department of Peacekeeping Operations has established full-time personnel conduct officer positions in peacekeeping missions in Burundi, Côte d'Ivoire, the Democratic Republic of the Congo and Haiti, and encourages the continued development of this process with due attention to avoiding duplication of resources and functions. The Committee underlines that the establishment of such units does not absolve mission managers and commanders of their responsibilities and their accountability with regard to misconduct.

28. The Special Committee recommends the strengthening of capacity at the Department of Peacekeeping Operations, with due attention to avoiding duplication of resources and functions, to address all cases of misconduct including sexual exploitation and abuse, to provide prompt advice to missions, to ensure the coherent application of United Nations procedures, and to provide guidance and advice for all categories of civilian and uniformed personnel.

29. The Special Committee expresses its deep concern regarding instances of intimidation of persons contributing to disclosing sexual exploitation and abuse, and calls for appropriate measures to protect such persons.

I. Investigations

30. The Special Committee recommends the establishment of a professional and independent investigative capacity, with the necessary expertise, within the administrative authority of the United Nations, bearing in mind General Assembly resolution 59/287, to investigate allegations of sexual exploitation and abuse and other allegations of misconduct of a similar grave nature where complex investigative techniques are needed.

31. The Special Committee recommends that, in implementing the foregoing proposal, full consideration be given to the recommendations contained in the report of the adviser to the Secretary-General.

J. Public information and communications

32. The Special Committee recommends that the Department of Peacekeeping Operations, in cooperation with the Department of Public Information, establish an effective outreach programme to explain the Organization's policy against sexual exploitation and abuse and to establish effective mechanisms to enable individuals to make complaints in a confidential setting.

33. The Special Committee recommends that the Department of Peacekeeping Operations provide feedback in general terms to alleged victims on the outcome of their complaints and of the mission's investigation, giving due regard to the privacy laws of Member States about information being disclosed prior to adjudication of the victim's complaints.

K. Victim assistance

34. The Special Committee recommends that the Secretary-General provide to the Committee at its next session a comprehensive strategy for assistance to victims of sexual exploitation and abuse, including means for financial compensation.

35. The Special Committee recommends that until such a comprehensive strategy for assistance to victims of sexual exploitation and abuse has been implemented missions should provide emergency assistance to victims of sexual exploitation and abuse within current mission budgets.

L. Individual disciplinary, financial and criminal accountability

36. The Special Committee recommends amending the Staff Regulations and contracts with United Nations Volunteers, consultants and individual contractors to specifically provide that acts of sexual exploitation and abuse constitute serious misconduct.

37. The Special Committee notes that there are existing rules that require staff to honour court orders for family support.

38. The Special Committee recommends that the Secretary-General introduce expedited procedures, including suspension without pay in appropriate cases, to deal with cases of sexual exploitation and abuse.

M. Memorandum of understanding

39. The Special Committee notes that the report of the adviser to the Secretary-General included a number of recommendations on the content of the model memorandum of understanding between the United Nations and troop-contributing countries and individual memorandums of understanding based on the model.[1]

[1] See A/59/710, recommendations in paragraphs 25, 33-34, 39, 61-62, 71 and 77-79.

However, the Committee was informed that the model memorandum of understanding was last reported to the General Assembly in 1997 (A/51/967 and Corr.1 and 2) and that it has never been adopted by the General Assembly as a basis for negotiation with individual troop-contributing countries. Accordingly, the Committee recommends that the Secretary-General prepare a draft model memorandum of understanding, taking into account the recommendations of the Special Committee in the present report, the recommendations of the adviser to the Secretary-General and General Assembly resolution 59/287, and submit a revised draft model memorandum of understanding to the Special Committee for its consideration at the next session.

N. Group of legal experts

40. The Special Committee recommends that the Secretary-General appoint a group of legal experts to prepare and submit to the General Assembly at its sixtieth session for its consideration a comprehensive report:

(a) To provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized, in accordance with due process;

(b) To provide advice on whether, and if so how, the standards in the Secretary-General's bulletin (ST/SGB/2003/13) could bind contingent members in the period prior to the conclusion of a memorandum of understanding or other agreement or other action by a troop-contributing country that incorporates those standards in a legally effective way under its national law;

(c) To study and propose ways of standardizing the norms of conduct applicable to all categories of peacekeeping personnel, paying particular attention to the issue of sexual exploitation and abuse.

O. Conclusions

41. The Special Committee requests the Secretary-General to provide a progress report on the implementation of the recommendations in the present report as part of his annual report to the Special Committee at its next regular session.